

REMARKS

Introduction

In response to the Office Action dated February 5, 2009, Applicants have added claims 43-56. Claims 1-42 have been canceled. Support for new claim 43 is found in, for example, originally filed claim 24 and pg. 2, lines 10-13. Support for new claim 44 is found in, for example, Fig. 4. Support for new claim 45 is found in, for example, pg. 2, lines 6-7. Support for new claim 46 is found in, for example, Figs. 3-10 and pg. 2, lines 15-16. Support for new claim 47 is found in, for example, Figs. 3-10 and pg. 9, lines 4-5. Support for new claim 48 is found in, for example, Fig. 4; pg. 6, lines 1-9; and pg. 9, lines 21-25. Support for new claim 49 is found in, for example, originally filed claim 31; Fig. 8; pg. 9, lines 25-28. Support for new claim 50 is found in, for example, originally filed claim 32; Figs. 3-5; pg. 9, lines 24-25. Support for new claim 51 is found in, for example, originally filed claim 33; Fig. 4; and pg. 9, lines 28-29. Support for new claim 52 is found in, for example, originally filed claim 34; Figs. 3 and 4. Support for new claim 53 is found in, for example, originally filed claim 35; Figs. 4-6. Support for new claim 54 is found in, for example, originally filed claim 36; Figs. 4-6. Support for new claim 55 is found in, for example, originally filed claim 37; Figs. 3 and 4. Support for new claim 56 is found in, for example, originally filed claim 38; Figs. 3 and 4.

Care has been taken to avoid the introduction of new matter. In view of the foregoing amendments and the following remarks, Applicants respectfully submit that all pending claims are in condition for allowance.

#### New Claims

New independent claim 43, for example, recites, "...rotating the holder connector and attachment device connector relative to each other to move them to a relative angular position other than the pre-determined relative angular position to effect engagement." Nothing in the cited reference teaches or suggests the described subject matter. Additionally, dependent claims 44-56 recite patentably distinguishing features of their own. It is submitted that these new claims distinguish over the cited reference.

#### Election/Restrictions

Claims 29 and 30-42 are withdrawn from further consideration as being drawn to a nonelected species, there being no allowable generic or linking claim. Claims 30-36 are also withdrawn since these claims are dependent from withdrawn claim 29.

Claims 1-42 have been canceled. However, new claims 43-56, introduced in this amendment, include the pertinent limitations of claims 24-38. New claims 43-56 are readable on the embodiment found in Figs. 3-10. As new claims 43-56 read on

the embodiment found in Figs. 3-10 (Species II) elected on October 17, 2008, the Applicants respectfully request consideration and examination of new claims 43-56.

Claim Rejection Under 35 U.S.C. § 112

Claim 25 is rejected under 35 U.S.C. § 112, second paragraph, as purportedly being indefinite for failing to particularly point out and distinctly claim the subject matter which the Applicants regard as the invention.

Applicants respectfully submit that the rejection is moot in view of the foregoing amendment that cancelled claim 25.

Claim Rejection Under 35 U.S.C. § 102

Claims 24-28, 37, and 38 are rejected under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent No. 6,942,131 to Trautman et al. ("Trautman").

Claims 24-28, 37, and 38 have been cancelled in this Amendment. However, new claims 43-56, introduced in this amendment, include some of the pertinent limitations of claims 24-28, 37, and 38.

Applicants traverse.

An aspect of the present invention includes a drink container holding apparatus where the holder and the object attachment device are engaged through orientation of a holder connector and an attachment device connector ("the connectors")

are configured in a predetermined route of angular disposition, with movement of the connectors relative to each other in a direction perpendicular to the selected plane, and rotational movement of the connectors relative to each other to a relative angular position other than the predetermined relative angular disposition, as required by claim 43.

Fig. 1 of Trautman shows a cup holder 10 and a mounting block 26. However, Trautman is *silent* regarding engagement (or disengagement) by orienting the holder connector corresponding to the bolt 26 of Trautman with the object attachment device connector corresponding to the key hole aperture 16 in a predetermined relative angular disposition, as required by claim 43. Further, Trautman fails to disclose or suggest, movement of the connectors relative to each other in a direction perpendicular to the selected plane, and rotational movement of the connectors relative to each other to a relative angular position other than the predetermined relative angular disposition, as required by claim 43.

As anticipation under 35 U.S.C. § 102 requires that each and every element of the claim be disclosed, either expressly or inherently (noting that "inherency may not be established by probabilities or possibilities," *Scaltech Inc. v. Retec/Tetra*, 178 F.3d 1378 (Fed. Cir. 1999)), in a single prior art reference, *Akzo N.V. v. U.S. Int'l Trade Commission*, 808 F.2d 1471 (Fed.

Cir. 1986), based on the forgoing, it is submitted that Trautman does not anticipate claim 43 nor any claim dependent thereon.

Entry of the above amendments is earnestly solicited. Applicants respectfully request that a timely Notice of Allowance be issued in this case.

Should there be any matters that need to be resolved in the present application, the Examiner is respectfully requested to contact the undersigned at the telephone number listed below.

The Commissioner is hereby authorized in this, concurrent, and future submissions, to charge any deficiency or credit any overpayment to Deposit Account No. 25-0120 for any additional fees required under 37 C.F.R. § 1.16 or under 37 C.F.R. § 1.17.

Respectfully submitted,

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